

JB16FRUH

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

19 CR 725 (JPO)

5 IGOR FRUMAN,

6 Defendant.

Hearing

7 -----x
8 New York, N.Y.
9 November 1, 2019
10 11:30 a.m.

11 Before:

12 HON. J. PAUL OETKEN,

13 District Judge

14 APPEARANCES

15 GEOFFREY S. BERMAN

United States Attorney for the
Southern District of New York

16 BY: NICOLAS LANDSMAN ROOS

REBEKAH A. DONALESKI

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18 CADWALADER WICKERSHAM & TAFT, LLP

Attorneys for Defendant

19 BY: TODD BLANCHE
20

21 Also Present: PTSO John Moscato
22
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1 (Case called)

2 THE COURT: Let me just confirm that Mr. Fruman
3 voluntarily waives his appearance for this matter.

4 MR. BLANCHE: He does, your Honor.

5 THE COURT: Thank you.

6 I scheduled this bail modification hearing in response
7 to a letter dated October 30th from counsel for Mr. Fruman.

8 Mr. Blanche.

9 MR. BLANCHE: Yes. Thank you, your Honor.

10 I have discussed this briefly with the government
11 prior to our conference before your Honor last week and then
12 again since the last conference I was relatively new to the
13 matter and wanted to gather facts before making the application
14 that I made a couple days ago. The basis of the application
15 and what we're asking for the Court to do is not change the
16 bond in any way except for the Court to remove two of the
17 current conditions, which is home detention and electronic
18 monitoring. The reason for that is simple. It is that in my
19 view they simply are not necessary to guarantee to reasonably
20 assure that Mr. Fruman shows up in court whenever he is
21 directed to do so.

22 As your Honor is aware, the charges in this case stem
23 from various charges that Mr. Furman is taking seriously. I am
24 not here today contesting the seriousness of the charges nor
25 the strength of the government's case. I haven't seen the

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1 evidence. We do not have discovery yet, but that is not the
2 reason for my motion. Rather, it's that Mr. Fruman has been in
3 the United States for 25 years and he has been a United States
4 citizen for 15 years and he simply is not a flight risk.
5 Everybody agrees that he doesn't need to be detained and that
6 there are conditions your Honor set to reasonably assure that
7 he shows up in court. The question is whether they are the
8 least restrictive conditions. Here, the government and the
9 Court have agreed Mr. Fruman can live outside of this district.
10 He lives in his home in Florida. He can travel to this
11 district. Go to the airport and get on a plane and come here
12 whenever directed. He can come here and meet with me. He can
13 come here and stay in a hotel without any issues. But when he
14 is home, he has to stay in his apartment 24 hours a day. In my
15 view, your Honor, the government has asked for too much with
16 that.

17 Mr. Fruman has three kids who live with him. He is
18 the primary caretaker of those kids. One is in high school.
19 One is in middle school. One is in elementary school. He
20 lives with them alone. He is in the process of getting a
21 divorce from his wife who doesn't live in the apartment. So he
22 needs to take care of his kids. He needs to be able to not
23 only take them to school and deal with their lives but also be
24 a dad to them. He also has an elderly mother who has serious
25 health problems who lives nearby. She has difficulty doing

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1 basic things like going to the store, which is something that
2 Mr. Fruman helps her with. Certainly his life as it exists in
3 Miami today he needs to be able to do those things.

4 I don't know what is in the government's mind, your
5 Honor. We will hear from them in a minute, but it seems to me
6 that one of the reasons why everybody agreed to home detention
7 with electronic monitoring is the now off the recorded fact
8 that Mr. Fruman was arrested at Dulles airport with a one-way
9 ticket to Vienna. The only admissibility of that is that he as
10 fleeing the country. I don't believe the government disputes
11 this, that that is completely false. There is absolutely zero
12 evidence that Mr. Fruman was leaving the United States and not
13 intending to come back.

14 THE COURT: Is it false that he had a one-way ticket
15 to Vienna.

16 MR. BLANCHE: Pardon me?

17 THE COURT: Is it false that he had a one-way ticket
18 to Vienna?

19 MR. BLANCHE: No. That is absolutely true. It is
20 false that he was not going to come back. He travels
21 internationally regularly as pretrial service notes, but often
22 doesn't know exactly when he is coming back.

23 THE COURT: So you are saying he had a one-way ticket,
24 but he was going to book other tickets and come back?

25 MR. BLANCHE: To come book, which is consistent with

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1 what he almost always does. Indeed, there are text messages,
2 your Honor. He uses an assistant and travel agent discussing
3 that in this particular case the one-way ticket was
4 significantly cheaper and less expensive than a round-trip. I
5 have the text messages, your Honor. I am happy to share them
6 with you and government if they want. I believe they have them
7 from the phones that they took three weeks ago.

8 The bottom line is the one-way ticket was about \$8,000
9 and a round-trip ticket was \$20,000. And because Mr. Fruman
10 and Mr. Parnas didn't know when they were going to return,
11 there was no reason to schedule a round-trip. Again, I will
12 wait to hear from the government, but that is consistent with
13 the history of Mr. Fruman and Mr. Parnas's travel. They don't
14 always book a round-trip. Indeed, it is not unusual to just
15 book a one-way trip if you don't know exactly when you are
16 coming back. I believe the trip was booked a day before or two
17 days before they were going to travel, which again is
18 consistent with their travel history.

19 So he just was not fleeing the country. If you remove
20 that from the equation and the headline and you look at the
21 rest of the facts and circumstances of this case, there is
22 already an extraordinary large bond, a million dollars, fully
23 secured by his house, which he has lived in for over 14
24 years. We'll get to the other cosigners in a moment, your
25 Honor, but it was cosigned by his son who is a 28-year-old

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1 American citizen working very hard in Manhattan as a young man
2 and the idea that Mr. Fruman would flee and potentially
3 financially destroy his son's life I believe there is no
4 evidence to support that.

5 He also has his entire life in the United States, your
6 Honor. The Pretrial Services report correctly notes that he
7 travels a lot. That is true. It also talks about some ties
8 outside the United States. Those family ties are extremely
9 remote and distant. He doesn't have any regular communication
10 with family outside of the United States. His soon-to-be
11 ex-wife has family outside the United States, but they are
12 getting divorced.

13 So at the end of the day, I suppose it is an odd
14 request because we just agreed to it last week; but at the end
15 of the day, the law requires the least restrictive conditions
16 be imposed. And requiring him to sit in his apartment in Miami
17 24 hours a day to guarantee your Honor that he shows up here
18 when directed is not necessary in my view. Your Honor, I have
19 spoken with the pretrial services officer in Miami, who has
20 been supervising him not very long but since he was released.
21 I have his contact information if your Honor would like to
22 speak with him. But he has been completely compliant and very
23 responsive and doing everything he is supposed to do on bail.

24 Again, I suppose we will hear the government's
25 position; but I have also spoken with other people who were

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1 familiar with the trip that Mr. Fruman was taking, and he was
2 coming back. Again, if you remove whether he was fleeing to
3 Vienna, which by the way has an extradition treaty with the
4 United States so that would be a pretty poor choice of a
5 country to fleet to, but when you remove that from the
6 argument, in my view it is a much simpler case given his
7 history. He is a United States citizen and has been for 15
8 years. He has never had any contact with the criminal justice
9 system. He has assets in the United States. He has bank
10 accounts in the United States. He has partial ownership of
11 businesses in the United States.

12 To be sure, your Honor, he does have some interest
13 outside the United States. I am not saying he doesn't, but the
14 question is a million-dollar bond with all the conditions that
15 we discussed enough, and in my view it's more than enough. I
16 am not asking to lower the bond. I am not asking that he be
17 allowed to have communication with his co-defendants or that
18 his supervision be adjusted. I am just asking your Honor to
19 allow him to live his life in Miami without being constrained
20 and having to stay inside.

21 I can address the cosigner issue now.

22 THE COURT: Why don't we do that after.

23 MR. BLANCHE: Sure.

24 THE COURT: To be clear you said based on information
25 we have learned after we agreed to this condition, the

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1 information that you learned is what?

2 MR. BLANCHE: Well, I have learned that indeed he
3 wasn't fleeing. I spoke with people who were familiar with the
4 trip. I also have documentary evidence that supports that,
5 which I didn't have until just before I made the application,
6 your Honor.

7 THE COURT: Okay.

8 MR. BLANCHE: I haven't spent a ton of time with Mr.
9 Fruman so I didn't know as much about his circumstances, his
10 family and his life as I did after the conference last week.

11 THE COURT: Okay. I will hear from counsel for the
12 government, Mr. Roos.

13 MR. ROOS: Thank you, your Honor.

14 So the government agreed to the bail package that
15 agreed to when the defendant was arrested but not without
16 hesitation and not without thought that perhaps this defendant
17 should be detained due to the substantial flight risk he poses.

18 Now, I will start with the circumstances of his arrest
19 and I think it in some ways there is not a lot of dispute here.
20 Mr. Blanche has spoken to folks who said he was coming back at
21 some point. But what is clear is he was subpoenaed by Congress
22 and indicated he was not going to comply on October 7th. On
23 October 8th he booked a flight with less than 24 hours before
24 he was going to board. On October 9th he was at the airport
25 and arrested on the jet bridge as he was boarding a one-way

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1 flight to Vienna. It's not clear if that was his final
2 destination and it is not clear when he was going to come back.

3 Now, that's not the sole basis for the government's
4 detention argument, but it certainly is a fear here, which is
5 he had reason to leave and he did it on short notice. He
6 happened to do it on a very significant Jewish holiday, which
7 raises the question of why there was such a rush to leave the
8 country, and he did it with a number of reasons why he has
9 substantial ties to Europe.

10 Let me go through those. First of all, yes, he has
11 been a United States citizen for some time. On the other hand,
12 he was born Belarus. He lived a good part of his life in
13 Ukraine. He has substantial business ties there. He operates
14 a bar called Buddha Bar. He has a luxury brand called Tada
15 that he is a partner in that has hotels and restaurants.

16 THE COURT: That is in Europe?

17 MR. ROOS: Yes, your Honor.

18 I can pass this up. This is the hotel brochure for
19 Tada. Mr. Fruman is on the second page, and it describes him
20 as the president and CEO of FD Import Corporation or Tada
21 Luxury Group. Among others things -- like I said, your Honor,
22 I have a copy for Mr. Blanche and I can pass one up to your
23 Honor as well. This is also not in the Pretrial Services
24 report because I guess the defendant didn't disclose it. But
25 there is a hotel. There are restaurants. There is a beach

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1 club, there is the Buddha Bar in Kiev. There are various
2 retail stores that are associated with this group. So I think
3 it is safe to say that the defendant is in a position where he
4 can return to Ukraine where he is politically connected and can
5 decide never to come back here and live a very nice life and
6 his family could follow him. That is not necessarily a reason
7 why the government is seeking to detain him, but it is a reason
8 why by substantial conditions need to be in place in the United
9 States to ensure that he doesn't flee.

10 Now, I think there are a few other points that just
11 sort of the bolster the idea that the defendant poses a flight
12 risk. Number one, as Mr. Blanche pointed out, the defendant
13 has traveled internationally extensively on at least 15 times
14 since January 2018, which was the period covered in the
15 indictment. Many of those trips have sort of circuitous travel
16 patterns, including flying to a city in Western Europe and
17 ultimately coming back from a different one or from the
18 Ukraine.

19 The defendant has utilized private travel. So, for
20 instance, earlier this year the defendant took a private plane
21 from Miami to a small Canadian city. Was outside the United
22 States for a period of time and then came back via Spain. So
23 again the defendant did return, but it suggests that, number
24 one, the defendant has access to private aircraft; and second,
25 that the defendant sometimes utilized different travel plans

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1 that will take him through multiple different countries
2 obscuring ultimately the final destination of his trip, which
3 again is noteworthy in the context where he was taking a trip
4 to Vienna. It is not clear that that was his final
5 destination.

6 A few other points, your Honor. The defendant's
7 business FD Import, which he discloses having income from in
8 his Pretrial Services report. \$21 million traveled through
9 accounts in FD imports. At least \$21 million through U.S.
10 accounts FD imports in the last three years. The defendant
11 reports significantly less than that amount and that may
12 because of business expenses. Certainly a substantial business
13 which is an import export business, which means there is a
14 Europe facing side to all of this, and it is yet another
15 financial resource that he has a connection to.

16 So I think you, your Honor, there is a number of
17 different international components here whether it be the
18 foreign travel, the fact that he was on the verge of leaving
19 the United States as things were becoming political hot for
20 him, his undisclosed substantial foreign business interests,
21 the extent to which he is minimizing his international
22 import/export business, the foreign business partners he has,
23 the use of private travel, the use of circuitous international
24 travel routes. Those all favor, in addition to the fact that
25 there is considerable evidence proving his guilt on the charged

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1 offenses and as we proffered previously in the ongoing
2 investigation those were all considerations that would favor
3 him fleeing the jurisdiction at some point.

4 So why is the particular condition here essential?
5 Well, a few things, your Honor. Number one, without these
6 conditions the defendant could go to the airport. He could get
7 on a boat. It is very possible law enforcement would have no
8 way of knowing. He turned in his U.S. passport. We don't know
9 if he has any other passports. There is certainly a risk that
10 he could fly. And these conditions are narrowly tailored. He
11 can still take flights. The government has indicated to
12 defense counsel there are particular reasons he needs to be
13 able to leave his home -- religious service, some sort of
14 childcare obligation. We're happy to hear those out and clear
15 them with pretrial services. He obviously is permitted to go
16 meet with his attorney.

17 So there is this compelling need for a way of tracking
18 him and ensuring that he is in the same location and also there
19 is a combination we're willing to make if there is a childcare
20 issue. I will not on that question, your Honor, that when the
21 defendant was arrested, his children was with a full-time nanny
22 in Miami and he has extensive travel where he is willing to
23 leave them. So there certainly is -- in this context, it seems
24 that he has other support. As I said we are willing to work
25 with him on the childcare issue, but it doesn't sound like that

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1 is the motivating factor here for his request to remove these
2 particular conditions. I will leave it at that unless your
3 Honor has any particular questions, but I think all that
4 together we view it as a compelling need to have some way of
5 securing where he will be at a given time and being able to
6 track it.

7 Let me make one more point actually about the
8 intersection between GPS and home detention. So the GPS
9 basically allows Pretrial Services to see where the defendant
10 is relatively and they have set up restrictive zones. For
11 instance, the state of Georgia could be a restricted zone
12 outside of Florida. If he crosses over there, at least as I
13 understand it, Pretrial Services gets an alert. Obviously law
14 enforcement would have to respond and find him. That process
15 is not perfect.

16 So the larger the geographical radius is where you set
17 the restrictive area, meaning whether it the Southern District
18 of Florida or the small area where he lives, the more the
19 defendant has room to move in the event that he sets off an
20 alert. So if travel were restricted to the Southern District
21 of Florida and he has no GPS, then he can just go to the
22 airport or he can go anywhere and we will not have anyway of
23 knowing. If he still has the GPS but no home detention, then
24 he can literally go to the airport and it is not until that
25 point where there is an alert, but at that point maybe too late

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1 where he can cross state lines or get on a boat. Again, it is
2 not until he leaves the jurisdiction or the restricted area
3 that Pretrial Services would get an alert.

4 So it is the government's view that law enforcement
5 needs to be able to confine the defendant to a geographic area
6 so that we have time to respond in the event that he begins to
7 flee. Of course the geographic area we're proposing is not the
8 MCC but the defendant's home. So he can still live his daily
9 life. We can, as I said, carve out restrictions if he wants to
10 go somewhere. That's a narrowly tailored way of securing
11 against the government's proffered risk of flight while also
12 allowing the defendant not to be detained.

13 THE COURT: One of the factors under the statute is the
14 weight of the evidence against the person and the nature and
15 circumstances of the offense.

16 Do you want to address anything about those?

17 MR. ROOS: Certainly, your Honor.

18 So I think defense counsel even stated it is a serious
19 offense. There is substantial evidence. It is described to
20 some extent in the indictment, but there are text messages and
21 emails, among other evidence, implicating the defendant. Some
22 of the international wire transfers that were used to fund the
23 foreign contributions passed through accounts that were jointly
24 held by the defendant. He was a leader. As the Pretrial
25 Services' report even indicates, he is a leader in the global

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1 energy producer's purported business, which is charged in the
2 first count of the indictment. So there is substantial
3 evidence against him and he is obviously facing jail time as a
4 result of that.

5 I would also just note that there is obviously
6 heightened attention and sensitivity to that, and I think
7 history bears out sometimes in those circumstances in higher
8 profile matters the attention becomes too much for a defendant
9 and they decide they just want to leave. So I think to address
10 that particular factor, your Honor, the weight of the evidence
11 is substantial and weighs heavily in favor of some form of
12 pretrial restriction as the government has proposed here.

13 THE COURT: Thank you.

14 MR. BLANCHE: Briefly, your Honor.

15 First of all, there is nothing in this statute or in
16 the case law that suggests that because this case is
17 purportedly close that a defendant is supposed to be subject to
18 some of the greater conditions than otherwise is required to
19 require his appearance in court.

20 In addition, the prosecutor made reference to the idea
21 that Mr. Fruman was less than forthcoming with Pretrial.
22 Pretrial doesn't say that. That is completely false. If there
23 is something about Mr. Fruman that Pretrial has any questions
24 about, he will show up within an hour and talk to him. They
25 asked questions and he answered them. Those interviews are

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1 very quick. They are usually right after you have been
2 arrested. You don't have paperwork with you. If the Pretrial
3 or Court wants more information about his businesses and his
4 income, they can inquire; but there has been no allegation he
5 hasn't provided it.

6 Third, the prosecutor made reference to a business
7 that has had several million dollars go through it. It is an
8 import/export business. The margins on that business, as
9 anybody knows, are quite small. So it is not inconsistent with
10 Mr. Fruman's income as reported to Pretrial and the fact that
11 his business has had several million dollars go through it over
12 the course of several years. That is not admissible of flight.

13 Judge, the rest of what the government said about why
14 electronic monitoring was necessary was completely
15 hypothetical. He may have another passport. Okay, he doesn't.
16 There is no evidence that he does. His passport has been
17 surrendered. He may decide that he wants to go to the airport
18 and get on a flight. Well, he doesn't have a passport and they
19 have offered no evidence that that is something that would
20 happen. By the way, if he wanted to flee, he could simply tell
21 his Pretrial Services Officer, I am going to visit Mr. Blanche
22 in New York, and he goes to the airport with permission and
23 hypothetical with this new passport he is able to flee. It is
24 not fair to the defendant and in fact it is not fair to the
25 process to not actually have evidence to support a position you

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1 take about something that the defendant may or may not do.

2 I think your Honor's should ask for evidence. The
3 evidence is the one-way ticket was not because he was not
4 coming back. The evidence is he has lived in the United States
5 for 25 years and a United States citizen for over 15. He has
6 been in the same residence for over 15 years. He has his
7 entire life in the United States. To be sure, he travels a lot
8 and has businesses overseas, which is why there is a one
9 million dollar bond fully secured with cosigners and other
10 conditions as well.

11 In my view what we're asking for is not a great
12 stretch. If the government's position is, Well, Judge, he
13 might go to the airport and flee, one question would be what
14 evidence do you have that he would do that. I submit to you
15 that the evidence would be zip. Nothing. So I am almost
16 fighting a battle punching in the dark here. There are all
17 kind of hypotheticals we can come up with; but if you look at
18 the facts, he has been completely compliant since he made bail.
19 He has been in the United States for plenty long enough. He
20 doesn't have family contacts overseas. His contacts are here.
21 His kids are in school.

22 I do agree with the government he certainly has help
23 at home. He travels a lot. He has help getting the kids to
24 and from school. That is not what this is about. This is
25 about whether the least restrictive conditions to reasonably

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1 assure that he shows up here when directed, your Honor. For
2 the reasons I just stated and the reasons that I stated
3 earlier, in my view the conditions without the bracelet and
4 home detention can more than reasonably assure your Honor.

5 THE COURT: Thank you for your arguments.

6 Having considered the circumstances and the factors in
7 the statute which is Section 3142(g), I am going to deny the
8 request for bail modification. I find that the current
9 conditions, including home detention and GPS monitoring are
10 reasonably necessary to assure the appearance of the defendant.
11 I realize there is not a lot of evidence in these situations.
12 It is early in the case and the Court is required to make a
13 determination on what the least restrictive restrictions are to
14 ensure the appearance of the defendant. But I am persuaded
15 when considering the nature and circumstances of the offense,
16 its seriousness, the weight of the evidence, and the other
17 circumstantial factors that these conditions are reasonably
18 necessary to assure the appearance and this includes the
19 factors mentioned by the government -- a one-way ticket to
20 Vienna -- it is impossible to know right now based on what I
21 have whether there was a purpose to leave or not or if it was
22 just a standard practice.

23 In addition to that you have the business and
24 properties of the defendant overseas, including Kiev, political
25 connections, overseas extensive foreign travel, and the

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1 financial resources. Considering that in light of the nature
2 and circumstances of the offense and the weight of the
3 evidence, I am going to deny the request for modification of
4 bail conditions.

5 Let's address the other matter you raised in your
6 letter.

7 MR. BLANCHE: Thank you, your Honor.

8 So the other matter, as your Honor will recall, there
9 are three cosigners for the bond. Two, Mr. Fruman's son and
10 his brother were agreed upon and approved by the Court and
11 there was a third cosigner to be named later. The third
12 cosigner is Mr. Fruman's brother's wife. As is the practice in
13 this district, cosigners go to the U.S. Attorney's Office to be
14 interviewed prior to signing the bond, and in this case Mr.
15 Fruman's brother who already signed and was approved in the
16 Eastern District of Virginia had met with, I believe, the
17 Pretrial Service Office in Virginia, which is how they do it in
18 that district, and signed the bond in Virginia and met with a
19 representative of the United States Attorney's Office and
20 provided information.

21 I was not at the interview. I don't believe any of
22 these prosecutors were at the interview either. My
23 understanding is initially Mr. Fruman's brother didn't -- when
24 talking about his business didn't mention every single business
25 or he mentioned that he owns several coffee shops and that he

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1 is not the sole owner, is a partial owner and they were rolled
2 up into one LLC. And for reasons that I will let the
3 government address, he provided two months or three months of
4 bank statements and two years of tax returns, which is what he
5 was told to bring with him prior to showing up. That
6 information shows that he is financially stable. He has a
7 significant amount of money. After hearing about other
8 businesses, the government wanted bank accounts from his
9 partial ownerships and all the other businesses. I don't think
10 that is necessary. I think it is appropriate especially
11 because he had already been approved and he has been approved
12 by your Honor.

13 The next cosigner, and that is the individual's wife,
14 has her own business. I believe she is an acupuncturist and
15 has a business associated with that. Her personal bank
16 statements were provided because she shares them with her
17 husband and tax returns were also provided. I believe the
18 government is also requiring bank statements from her business.
19 As I put in my letter, I am not trying to be difficult and
20 create issues that shouldn't exist, but I don't think it is
21 appropriate or necessary for the government to do that, that
22 deep of an interview. They have access to the cosigners. The
23 cosigners are hard-working people in New York City who have
24 shown to be financially honorable to what they did provide. My
25 ask to the Court is if there is some more information needed

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1 about the businesses that it be provided to Pretrial besides
2 the government who I know does that in this district, but in
3 this case it doesn't seem appropriate.

4 THE COURT: You know it is the normal practice at
5 least in this district for these sorts of questions to be asked
6 by the U.S. Attorney and then if there is a dispute as to
7 whether someone is a financially responsible person for
8 purposes of the bond conditions, then I might resolve a
9 dispute. I am not sure that there is a ripe dispute yet. I
10 don't know that I would in the first instance step in to do the
11 interview myself.

12 MR. BLANCHE: I am not suggesting that you do, your
13 Honor. I was a paralegal in that office for four years. I
14 have done 500 cosigner interviews. I know exactly the
15 questions they ask. I am not objecting to any of the
16 questions. I am not objecting to the information they
17 requested be provided prior to the interview, which is they
18 want proof you have money. Bring the bank statements and two
19 years of tax returns. They did that. They answered questions
20 and the government I believe now wants backup information about
21 their businesses. I am not objecting to the questions. I am
22 not objecting to their questions about moral suasion and
23 influence on the defendant, the background, whether they have
24 been arrested, all the questions that are always asked. I
25 don't believe there needs to be further documents provided

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1 about the businesses they have or that they have a partial
2 interest in order to qualify them as cosigners on a fully
3 secured million dollar bond.

4 THE COURT: Mr. Roos.

5 MR. ROOS: Yes, your Honor.

6 As a little background. Right before Mr. Fruman was
7 to be released in Virginia, we flagged for his prior counsel's
8 counsel in Virginia the fact that we had some concerns about
9 Steve Fruman, the defendant's brother, because it appeared he
10 could be involved in some of the conduct that is charged in the
11 indictment. So we said, You need to have another cosigner and
12 our preference is since you have already selected two family
13 members that the new cosigner is not another family member. So
14 his prior counsel said, Well, we really want to get him out
15 today. So we said, Okay, we will allow Steve Furman for now
16 but there needs to be someone else because we have this
17 concern. So that was the premise under which we were operating
18 and I think also there was no dispute that it is SDNY standard
19 practice to typically have a paralegal specialist in our office
20 interview the cosigners and ask for various documentation.

21 So fast forward. Your Honor sets the bail conditions.
22 We learn that the cosigners are the defendant's son, his
23 brother, and his brother's wife, which feels a little cute in
24 light of the conversation we had previously about maybe not
25 being a family member. In any event, we proceed forward with

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1 the interviews that the paralegals are conducting. The
2 paralegal specialist who conducts the interview of Steve Fruman
3 asks him one of our very standard questions, which are can you
4 tell us where you have bank accounts and the types of your
5 business. Mr. Steve Fruman identifies a personal checking
6 account and says that he has a particular coffee business.

7 The paralegal who is aware of aspects of the case
8 asked if those were the only accounts and Steve Fruman said
9 yes, which is false. And then later in the interview the
10 paralegal following up knowing this was an issue asked if there
11 are any other businesses or significant assets that Steve
12 Fruman had that he had not reported previously. And Steve
13 Fruman again said no. So twice we got a false statement from
14 him that -- that seemed as though he was trying to conceal some
15 type of business that we're aware of. What is particularly
16 notable about the business that he was not disclosing to the
17 folks in our office is that, number one, it is a substantial
18 source of income but number two, it is the business that may be
19 connected to the scheme charged in the indictment. So it
20 certainly seemed like an effort to conceal to the extent to
21 which he might be implicated and which would make him an
22 inappropriate cosigner in this case. That was our concern.

23 The AUSAs, who were not part of the interview, spoke
24 with the paralegal. The paralegal then recommenced the
25 interview. Mr. Steve Fruman had spoken to his attorney and

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1 then acknowledged some business, but again distant himself from
2 this particular business in question by saying he doesn't work
3 there anymore. Your Honor, frankly just from our review of the
4 financial records, we don't think that is right. In any event,
5 the larger issue here is not that Steve Fruman is an
6 inappropriate financially responsible person or from the stand
7 point he doesn't have assets but that he has demonstrated he is
8 not an appropriate cosigner based on his answers to the
9 government in an interview.

10 THE COURT: Okay. So let me just say, Mr. Blanch, I
11 don't think it is appropriate for the government to be seeking
12 discovery from a cosigners. However, it is entirely
13 appropriate for the government to be asking questions to ensure
14 that a cosigner is not involved in some way in the charged
15 conduct.

16 MR. BLANCHE: I couldn't agree more, your Honor. The
17 question that a false answer was supposedly given to about this
18 LLC that may be connected, it's not a functioning LLC. It is
19 not ongoing. It is something in the past. At last that is my
20 understanding. So the question is do you have any other
21 businesses and he answers no, that is not a false statement.
22 He doesn't have ongoing kind of income, which is the purpose of
23 that question -- what is your ongoing income.

24 Again, I wasn't there so I don't know exactly the
25 questions asked or exactly how the question was answered; but

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1 my understanding also, and the government can correct me if I
2 am wrong, when the government representative came back down and
3 asked questions what about this, he didn't lie and say, Oh,
4 yeah, I also have a small interest in a building in Manhattan.
5 So he was not trying to be forthcoming or lie. He talked about
6 his main business, which is partial ownerships in a bunch of
7 coffee shops. When the representative came back down, he was
8 forthcoming. He wasn't trying to keep anything from the
9 government.

10 Again, this happens regularly with cosigners. They
11 are not part of the criminal process. They come in to be
12 interviewed. I agree with you asking him are you part of this
13 indictment, that's a perfectly fair question.

14 THE COURT: I don't think they should be asking that,
15 but they can ask subsidiary questions that might shed light on
16 that.

17 MR. BLANCHE: Sure.

18 THE COURT: That includes give me information about
19 these other accounts and entities.

20 MR. BLANCHE: The government can correct me if I am
21 wrong but when they asked him about that, he didn't say it
22 initially. There was something where they came back down and
23 asked him more questions and he was forthcoming thereafter.
24 Again, I don't think that that process allows the government to
25 necessarily say, Okay, since you didn't tell us when we first

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1 asked you, give us hard copies of all the bank statements.

2 THE COURT: I am not sure exactly what the ask is
3 here.

4 MR. BLANCHE: I want them to be approved, Judge. I
5 think they met with the government. They provided significant
6 information about their assets. They answered all the
7 questions. They gave two months of bank statements as
8 requested prior to the interview. I think they should be able
9 to sign today -- it is due today. I would ask for one extra
10 day if they cannot come until Monday, but they be approved to
11 sign the bond.

12 THE COURT: Mr. Roos.

13 MR. ROOS: I think on this, your Honor, so the
14 defendant's brother did say when the interview recommenced, Oh,
15 yeah, I am part of that, too, but I don't really work with that
16 business anymore. Now, notably on the Pretrial Services
17 report, the business in question is listed as the defendant's
18 source of monthly income. Right under it says the defendant's
19 brother affirmed it as much. So it seems as though the brother
20 does have some awareness. So at this stage the government
21 wasn't even trying to say Steve Fruman cannot be a cosigner
22 because he didn't disclose these particular things. We just
23 said, In light of the fact that you didn't disclose it
24 initially and we have these concerns we're trying to evaluate
25 and then you say, I am no longer part of that, we just want to

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1 see the financial records for these things so we can verify
2 whether or not what you are saying is true. I think that is a
3 pretty reasonable step in terms of evaluating a cosigners where
4 these issues have come about is just to ask for more
5 information.

6 By the way, if the defendant's brother doesn't want
7 advance information, the defendant certainly can advance
8 another financially responsible person as a cosigner. We will
9 consider someone else instead of Steve Fruman if some of these
10 issues stand in the way if he doesn't want to inculcate himself
11 or for privacy reasons doesn't want to disclose financial
12 documents.

13 THE COURT: What about the argument of Mr. Blanche
14 that irrespective of that he has already established the
15 sufficiently financially -- has enough financial wherewithal to
16 be a financially responsible cosigners?

17 MR. ROOS: Right. He definitely has demonstrated that
18 he while he doesn't have enough money to satisfy the entirety
19 of the bond, he would fall within the way SDNY typically treats
20 people as financially responsible persons or not.

21 The issue really is what certainly seemed like acts of
22 deception but perhaps could have been a misunderstanding and
23 the government's request is really let's just run this down a
24 little bit more to see whether or not he was deliberately lying
25 or just forgot about this business that he perhaps recently

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1 disentangled himself from.

2 THE COURT: So what exactly is the government seeking?

3 MR. ROOS: The paralegals asked for financial records,
4 which would be the same bank records which he produced for his
5 other businesses for the businesses that he disclosed at the
6 very end of the interview.

7 THE COURT: Which is two or more than two?

8 MR. ROOS: The one we're talking about extensively we
9 would be looking for something that either shows what he is
10 gaining from it or would show the fact that he is no longer
11 involved in it. And then he named I believe three other LLCs
12 and it is not clear whether or not those generate any income.
13 So that is a secondary point, but that is something we would be
14 interested in as well.

15 MR. BLANCHE: Judge, this is unprecedented. I say
16 that having dealt with the world of cosigners since 1999. They
17 have shown two years of tax returns, significant assets that
18 more than qualify them under the SDNY's threshold to be a
19 financially responsible person. To ask for now further
20 information about LLCs that the cosigner may have a small
21 interest in, even though they have already separately told the
22 government about it so they told the government about it, but
23 also shown assets that are more than sufficient by the
24 government's own admission.

25 It is now becoming a discovery process. So the

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1 cosigners has a choice to make: Either don't support your
2 brother or go and try to find all these bank statements and
3 give the government all this information that goes above and
4 beyond what is already proven as required under the statute
5 that you're financially responsible.

6 THE COURT: Well, it may be unusual, but maybe the
7 reason it is unusual is because the government has to suss out
8 whether there is an appropriate cosigner. If someone is
9 connected to the charged conduct, they are probably not
10 appropriate cosigner and they are trying to figure that out.

11 MR. BLANCHE: I don't think the government is saying
12 that. They are not saying is he connected to the charged
13 conduct.

14 THE COURT: I thought they were.

15 MR. ROOS: I was saying we're trying to evaluate that
16 in part and the business that he declined to disclose and
17 appeared lied about in the first instance would potentially
18 connect him to the charged conduct.

19 MR. BLANCHE: Or put another way, a fishing
20 expedition. He is the brother of the defendant. He has moral
21 suasion. They have done some business together. We're trying
22 to find out through the cosigner due process. By he way,
23 already approved an EDA and already signed the bond in EDA with
24 the government's blessing. We're now going to interview him.
25 He proves he is financially responsible. But wait, we want to

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1 do a little more work, a little more digging to see if he may
2 be connected. That doesn't seem, for lack of a better word,
3 fair. He is left with an impossible choice -- support his
4 brother like he did in Virginia or indulge the government in
5 their digging to see whether he may or may not connected.

6 THE COURT: If the purpose is not to do a fishing
7 expedition but rather to determine if this is an appropriate
8 cosigners and/or whether lied when talking to the the U.S.
9 Attorney's Office, if that happens to result in discovery, I
10 don't think that makes it improper. What is proper is to
11 determine whether he is an appropriate cosigners. He can
12 decline to give the information and the defendant can find
13 someone else.

14 MR. BLANCHE: I just think he already answered their
15 questions. He didn't answer them the way they wanted, but he
16 was forthcoming. He didn't, I guess, answer all the questions
17 right away; but he was forthcoming when ultimately asked about
18 other interests he had in any other thing. It is not normal if
19 someone says that I own four cars for the government to say
20 bring me the loan payments. That is not the way the government
21 does it.

22 I understand the government's point whether he has
23 moral suasion, which will go to whether he is involved, is an
24 appropriate avenue for them to explore, which I believe they
25 did already by asking the questions. All I am asking here is

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1 for your Honor to find what they have done enough. The
2 government hasn't said that he wasn't forthcoming by the end of
3 the interview. It is just about whether he now has to go back
4 and get, I guess, bank records, which I am not sure whether he
5 is a signatory on some of the accounts. He only has a small
6 ownership in them I believe. He is an appropriate cosigner.
7 He is the defendant's brother.

8 By the way, the defendant's brother's wife who has her
9 own business, which I don't know whether they have any issues
10 with her, but I guess that is another question for them to
11 answer.

12 THE COURT: Are you seeking information from the
13 wife's business as well?

14 MR. ROOS: On the wife she refused to turn over any
15 bank records and I think as is clear some level of bank records
16 or tax record is common for all cosigners. As in the case with
17 Steve Fruman, we initially asked for tax records and bank
18 records. He just didn't give us a full picture. In the case
19 of his wife, she declined to give any information.

20 MR. BLANCHE: May I have one moment?

21 THE COURT: Yes.

22 (Pause)

23 MR. ROOS: Sorry. In support of her business.

24 THE COURT: On the business?

25 MR. ROOS: Yes.

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1 THE COURT: So the question for me now is do I deem
2 Mr. Steve Fruman as a financially responsible person, or do I
3 let the government continue requesting this additional
4 information?

5 MR. ROOS: Well, your Honor, I think posed that way,
6 the government would say it opposes Steve Fruman as a cosigner
7 because it appears he could be involved in the relevant conduct
8 and because it appeared he initially lied to the paralegal who
9 was interviewing him. That's not a final conclusion. So our
10 hope is that more information will be provided so that we could
11 further evaluate that. So I think the government's request is
12 that we just put this off for a little bit and request
13 additional information. If the defense counsel really wants
14 the Court to rule on this right now, then I think the Court has
15 to decide basically yes or no on the cosigner.

16 THE COURT: Well, I am not in a position to decide on
17 whether this is an appropriate and financially responsible
18 cosigner. I am also not going to grant the request at this
19 time to deem him an appropriate cosigner without additional
20 information. So I am denying the request to preclude the
21 government from asking the questions given the representations
22 that are before me.

23 I think you should confer with each other and talk
24 about how this plays out going forward and if there is a ripe
25 request for me to deem someone a financially responsible person

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1 at a later point. I am not in a position to do that at this
2 point.

3 So that is the ruling. I am denying the bail
4 modification request and the additional relief sought in the
5 letter.

6 Is there anything else for now?

7 MR. BLANCHE: Yes, Judge.

8 the cosigners were supposed to sign today. I would
9 request, I don't know, another week. I don't think it will
10 take that long, but if we can have until next Friday to deal
11 with what we just discussed.

12 THE COURT: Is that okay with the government?

13 MR. ROOS: We have no objection to that.

14 THE COURT: Another week is fine. Next Friday.

15 MR. BLANCHE: Thank you.

16 THE COURT: Thank you everybody.

17 We're adjourned.

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